IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 810/2006
(Jagdish V/s State of Rajasthan)

Date of Order : 14/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.L.Bishnoi, for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 12.6.2006 passed by Special Judge, NDPS Cases, Jodhpur (for short 'the trial court' hereinafter) whereby the application filed by the petitioner under Section 451 Cr.P.C. seeking interim custody of the vehicle Tata Specio Engine No. 497 S.P. 27 BUZ 821374 and Chassis No. 421057 BUZ 2912076 was dismissed.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the order impugned.

From the perusal of the order impugned, it appears that on 23.7.2005, S.H.O. Police Station Marwar Junction intercepted the said vehicle while it was transporting huge

quantity of Poppy Straw, however, the occupants of the vehicle managed to fled away. The vehicle in question as also the contraband poppy straw found in the said vehicle weighing 86 kg. which is commercial quantity were seized.

The petitioner came with a case that the vehicle was given on hire to one Oparam on a monthly amount of Rs.15,000/-. The court below found that the vehicle was used as a conveyance for transporting the poppy straw recovered weighting 86 kg with the knowledge of the present petitioner and therefore, declined to give interim custody of the vehicle.

Learned public prosecutor submits that in the said vehicle, apart from the other persons, the petitioner was also one of the occupants and therefore, the petitioner had knowledge of narcotic drugs being transported in the said vehicle, thus it is not open for the petitioner to contend that the contraband poppy straw weighing 86 kg. was being transported in the said vehicle without his knowledge. The matter is at the investigation stage and at this stage it cannot be concluded that the vehicle in question was used as a conveyance for transporting the poppy straw without his knowledge.

Having considered the facts and circumstances of the case and the fact that prima-facie the court below found that the petitioner had knowledge of using the vehicle in question as conveyance for transporting the poppy straw which is

commercial quantity, in my view, the trial court was justified in refusing to give interim custody of the vehicle which is otherwise liable for confiscation at trial.

The petition has no force and it is therefore, dismissed. **(H.R.PANWAR),J.**

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